

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
APR 12 2021	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

1 CHRISTOPHER CHIOU
 2 Acting United States Attorney
 3 Nevada Bar Number 14853
 KIMBERLY M. FRAYN
 4 Assistant United States Attorney
 5 501 Las Vegas Boulevard South, Suite 1100
 Las Vegas, Nevada 89101
 Telephone: 702.388.6546/Fax 702.388.6418
Kimberly.Frayn@usdoj.gov

6 *Attorneys for the United States*

7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 JUAN ZUBIAS-GAMEZ,
 a.k.a. "Juan Zubias-Gamez,"

13 Defendant.

Case No.: 2:21-cr-00101-GMN-VCF

**Stipulation to Extend Deadlines to
 Conduct Preliminary Hearing and
 File Indictment (Seventh Request)**

14 IT IS HEREBY STIPULATED AND AGREED, by and between Christopher
 15 Chiou, Acting United States Attorney, and Kimberly M. Frayn, Assistant United States
 16 Attorney, counsel for the United States of America, and, Abel M. Yanez, Esq., counsel for
 17 Defendant Juan Zubias-Gamez, that the Court continue the preliminary hearing originally
 18 set in Case No.: 2:20-mj-695-BNW currently scheduled in this case for April 27, 2021, be
 19 continued to at date and time convenient to the court but not sooner than June 15, 2021.
 20 This request requires that the Court extend two deadlines: (1) that a preliminary hearing be
 21 conducted within 14 days of a detained defendant's initial appearance, *see* Fed. R. Crim. P.
 22 5.1(c); and (2) that an information or indictment be filed within 30 days of a defendant's
 23 arrest, *see* 18 U.S.C. § 3161(b).

1 This stipulation is entered into for the following reasons:

2 1. The United States Attorney's Office has developed an early disposition
3 program for immigration cases, authorized by the Attorney General pursuant to the
4 PROTECT ACT of 2003, Pub. L. 108-21.

5 2. The early disposition program for immigration cases is designed to: (1) reduce
6 the number of hearings required in order to dispose of a criminal case; (2) avoid having
7 more cases added to the court's trial calendar, while still discharging the government's duty
8 to prosecute federal crimes; (3) reduce the amount of time between complaint and
9 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek
10 indictments in immigration cases, which in turn reduces court costs.

11 3. The defendant has accepted a plea offer in this case that requires defendant to
12 waive specific rights and hearings in exchange for "fast-track" downward departure under
13 USSG § 5K3.1. A written plea agreement, waiver of indictment, and a criminal information
14 has been submitted in case number 2:21-cr-00101-GMN-VCF. A change of plea hearing has
15 been scheduled for May 26, 2021. If the court accepts the defendant's guilty plea, the
16 preliminary hearing originally set in Case No.: 2:20-mj-695-BNW can be vacated. If not, the
17 parties will need additional time to finalize their preparations for the preliminary hearing.

18 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
19 preliminary hearing within a reasonable time, but no later than 14 days after the initial
20 appearance if the defendant is in custody"

21 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
22 showing of good cause—taking into account the public interest in the prompt disposition of
23 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
24 times"

1 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
2 information or indictment charging an individual with the commission of an offense shall be
3 filed within thirty days from the date on which such individual was arrested or served with a
4 summons in connection with such charges.”

5 7. Defendant, defense counsel, and the government will need additional time to
6 finalize their preparations for the preliminary hearing, if the court ultimately does not accept
7 the defendant’s guilty plea on May 26, 2021.

8 8. Accordingly, the parties jointly request that the Court schedule the
9 preliminary hearing in this case at a date and time convenient to the Court, but not sooner
10 than June 15, 2021.

11 9. Defendant is in custody and agrees to the extension of the 14-day deadline
12 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.
13 § 3161(b), provided that the information or indictment is filed on or before the date ordered
14 pursuant to this stipulation.

15 10. The parties agree to the extension of that deadline.

16 11. This extension supports the public interest in the prompt disposition of
17 criminal cases by permitting defendant to enter into a plea agreement under the United
18 States Attorney’s Office’s fast-track program for § 1326 defendants.

19 12. Accordingly, the additional time requested by this stipulation is allowed
20 under Federal Rule of Criminal Procedure 5.1(d).

21 13. In addition, the parties stipulate and agree that the time between today and
22 the scheduled preliminary hearing is excludable in computing the time within which the
23 defendant must be indicted and the trial herein must commence pursuant to the Speedy
24

1 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.
2 § 3161(h)(7)(B)(i) and (iv).

3 14. This is the seventh request for an extension of the deadlines by which to
4 conduct the preliminary hearing and to file an indictment.

5 DATED this 8th day of April, 2021.

6 Respectfully submitted,

7 CHRISTOPHER CHIOU
8 Acting United States Attorney

9 /s/Abel M. Yanez
10 Abel M. Yanez, Esq.
Counsel for Defendant
JUAN ZUMBIAS-GAMEZ

11 /s/Kimberly M. Frayn
12 KIMBERLY M. FRAYN
13 Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No.: 2:21-cr-00101-GMN-VCF

Plaintiff,

V.

JUAN ZUBIAS-GAMEZ,
a.k.a. "Juan Zabias-Gamez."

[Proposed] Order on Stipulation to Extend Deadlines to Conduct Preliminary Hearing and File Indictment

Defendant.

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

14 IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled
15 on April 27, 2021, be vacated and continued to 6/18/2021 at 2:00 PM

DATED this 20th day of April 2021.

Janis Lowenthal

UNITED STATES MAGISTRATE JUDGE